

**73-1-8 Duties of owners of ditches -- Safe condition -- Bridges.**

- (1) The owner of any ditch, canal, flume or other watercourse shall:
  - (a) maintain it to prevent waste of water or damage to the property of others; and
  - (b) by bridge or otherwise, keep it in good repair where it crosses any public road or highway to prevent obstruction to travel or damage or overflow on the public road or highway.
- (2) The provisions of Subsection (1)(b) do not apply where a governmental entity maintains or elects to maintain a bridge or other device to prevent obstruction to travel or damage or overflow on the public road or highway.
- (3) An owner or operator of a ditch, canal, stream, or river, is immune from suit if:
  - (a) the damage or personal injury arises out of, is in connection with, or results from the use of a pedestrian or equestrian trail that is along a ditch, canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river;
  - (b) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;
  - (c) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between the owner or operator of the trail right-of-way, or of the right-of-way where the trail is located, and the municipality or county where the trail is located; and
  - (d) the written agreement:
    - (i) contains a plan for operation and maintenance of the trail; and
    - (ii) provides that an owner or operator of the trail right-of-way, or of the right-of-way where the trail is located has, at minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from use of the trail.

Amended by Chapter 357, 2007 General Session